

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

IN RE: DIGITEK
PRODUCTS LIABILITY LITIGATION

MDL NO. 1968

THIS DOCUMENT RELATES TO:

ALL CASES

NOTICE TO TAKE VIDEOTAPED ORAL DEPOSITION

PLEASE TAKE NOTICE that pursuant to Rule 26 and 30(b)(6) of the Federal Rules of Civil Procedure, plaintiffs, by and through their undersigned attorneys, will take the deposition of the person or persons most knowledgeable of the topics identified in Attachment A attached hereto.

This deposition will take place on a **date to be determined**, at a **location to be determined**. This deposition is noticed in the above-captioned matter for any and all purposes permitted by the Federal Rules of Civil Procedure, and any other federal, state, or local rules that apply to this action and the deposition will be taken in accordance with these rules. The oral examination will continue from day to day until completed. You are notified to appear, produce your witness, and take such part in the examination as shall be fit and proper.

This deposition will be recorded stenographically and on videotape, and will comply with any relevant orders in this MDL.

In accordance with Rule 30(b)(2), the deponent is requested to bring with him to the deposition the documents listed in Attachment A.

RESPECTFULLY SUBMITTED, this 2nd day of December, 2009

Respectfully submitted,

On Behalf of the Plaintiffs' Steering Committee

A handwritten signature in black ink, appearing to read 'Fred Thompson, III', is written over a horizontal line.

Fred Thompson, III, Esq.
Motley Rice, LLC
28 Bridgeside Blvd.
Mt. Pleasant, SC 29464
Co-Lead Counsel

Carl N. Frankovitch, Esq.
Frankovitch, Anetakis, Colantonio & Simon
337 Penco Road
Weirton, WV 26062
Co-Lead Counsel

Harry F. Bell, Jr., Esq.
Bell & Bands PLLC
P.O. Box 1723
Charleston 25326
Co-Lead and Liaison Counsel

Attachment A

Defendants Mylan are required by this notice, pursuant to Rules 26 and 30 of the Federal Rules of Civil Procedure, to designate one or more directors, officers, managing agents or other persons who are most knowledgeable to testify in its behalf as to all matters known or reasonably available to the corporation concerning the following matters with the following definitions intended to provide better understanding of certain of the terms used herein as follows:

TABLE OF DEFINITIONS

“Actavis” means any of the *“Defendants Actavis”* as defined in the PTI #16 of MDL 1968, and any subsidiary, affiliate, officers, agents, attorneys, employees, representatives, or others acting on their behalf.

“Digitek” means Digitek® (digoxin tablets, USP).

“Discuss” means to produce for examination in response to this area of inquiry the most knowledgeable person that can intelligently and completely respond to all questions related to this area of inquiry and the subject matter for which it addresses.

“Documents” means and includes all papers of any kind or character, schematic layout design, correspondence, writings, records, meeting minutes, reports, studies, evaluations, written analysis, projections, analyses, presentations, memoranda, drawings, graphs, charts, books, statements, ledgers, financial records, checks, drafts, receipts, forms prescribed by government agencies, photographs, motion pictures, videotape, videodisc, audiotape or other sound recording, any method or medium by which information is utilized by computers, including email, computer tapes, computer drives, computer printouts, photocopies, microfilm, microfiche and any other data, sound, compilation or recording from which information regarding the described transactions can be obtained, translated if necessary by you through appropriate and necessary devices into usable and intelligible form.

“Identify”, when used with respect to documents, things, or other items of real or demonstrative evidence, not withheld because of claim of privilege or other objection means to list and describe the items of which discovery is sought:

- (a) State the type of document or thing, its date, title or heading, and subject matter;
- (b) Give an exhibit number for the document or thing if one has been assigned;
- (c) Identify all persons who participated in creating the document or thing; and
- (d) State the present location and identify the present custodian of the document or thing.

“Identify” when used with respect to documents, things or other items of real or demonstrative evidence, withheld because of claim of privilege or other objection, means to list and describe the items

of which discovery is sought and other relevant information in accordance with the terms of PTO #16 Section V.

"Identify" when used with respect to providing specific testimony concerning a specific area of inquiry, means to produce for examination the most knowledgeable person who can discuss all facts and respond to all questions reasonably related to the subject matter of area of inquiry at issue.

"Mylan" means any of the *"Defendants Mylan"* as defined in the PTI #16 of MDL 1968, and any subsidiary, affiliate, officers, agents, attorneys, employees, representatives, or others acting on their behalf.

"Quality" as used in the Request shall have the broadest possible meaning and encompass any area concerning quality control, quality assurance or any function relating to the quality of the manufacturing process, finished product or any other related aspect.

AREAS OF INQUIRY

Please designate the most knowledgeable person or persons to discuss the following for the time period March 2006 to April 2008:

1. All information provided by Actavis to Mylan when Mylan took possession of Digitek that would assist in tracing Digitek tablets back to a particular lot or batch. This includes any information that would have accompanied the Digitek containers, packaging or other shipping materials, including invoices and transmittal communications.
2. Details of the process by which Digitek was sold, supplied and/or transported by Actavis to Mylan.
3. Mylan policies, procedures and/or protocols for the sale, supply and/or distribution of Digitek to its customers.
4. Business and/or financial arrangements, agreements and/or relationships between Actavis and Mylan and between Mylan and its customers relating to Digitek.
5. Gross and net profits from the sale of Digitek by Mylan to its customers.

SUBPOENA DUCES TECUM

Pursuant to Fed. R. Civ. P. 30(b)(1), the witness or witnesses designated by Actavis shall bring the following documents to the deposition:

1. Curriculum vitae of the designated witness or witnesses;
2. All documents deponent reviewed in preparation for deposition.

Pursuant to Rule 30(b)(2), Defendant is requested to produce at the deposition, at the time and place specified in this Notice, any and all documents requested above and all documents relating to Areas of Inquiry Nos. 1 through 5 to the extent they have not already been produced. Counsel for Plaintiff is committed to resolving any discovery dispute or clearing up any misunderstandings as to documents sought and is available to meet prior to this deposition to discuss this Notice.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 2nd, I served via e-mail and United States mail a true and correct copy of the foregoing Notice of deposition of 30(b)(6) witnesses to:

Rebecca A. Betts, Defendants' Liaison Counsel
Allen Guthrie & Thomas, PLLC
P.O. Box 3394
Charleston, WV 25333-3394

Harvey L. Kaplan, Esq.
Shook Hardy and Bacon LLP
2555 Grand Boulevard
Kansas City, Missouri 64108

Matthew P. Moriarty
Tucker, Ellis & West, LLP
1150 Huntington Building
925 Euclid Avenue
Cleveland, Ohio 44115-1414

Richard A. Dean, Esq.
Tucker Ellis and West LLP
1150 Huntington Building
925 Euclid Avenue
Cleveland, Ohio 44115

Madeleine McDonough, Esquire
Shook, Hardy, & Bacon LLP
2555 Grand Boulevard
Kansas City, Missouri 64108

PLAINTIFFS' STEERING COMMITTEE

By: 

Plaintiffs' Co-Lead Counsel